



COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION
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**CITY OF NEWPORT BEACH
ZONING ADMINISTRATOR STAFF REPORT**

August 29, 2013
Agenda Item No. 3

SUBJECT: Annual Review of Fletcher Jones Motorcars Development Agreement
(PA2009-052)
3300 Jamboree Road

APPLICANT: Fletcher Jones Motorcars

PLANNER: Fern Nueno, Associate Planner
(949) 644-3227, fnueno@newportbeachca.gov

ZONING DISTRICT/GENERAL PLAN

- **Zone:** PC 42 (San Diego Creek North Planned Community)
- **General Plan:** CG (General Commercial)

PROJECT SUMMARY

An annual review of Development Agreement No. 9 for Fletcher Jones Motorcars, pursuant to Section 15.45.080 of the Newport Beach Municipal Code and Section 65865.1 of the California Government Code.

RECOMMENDATION

- 1) Conduct a public hearing;
- 2) Find the review exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15321 (Class 21 - Enforcement Actions by Regulatory Agencies) of the CEQA Guidelines;
- 3) Find that the applicant has demonstrated good faith compliance with the terms of the Development Agreement; and
- 4) Receive and file the Annual Report of the Development Agreement for Fletcher Jones Motorcars (Attachment No. ZA 2).

DISCUSSION

Section 15.45.080 of the Municipal Code requires the City to periodically review development agreements to determine if the applicant has complied with the terms of the agreement. This review should be conducted at least once every 12 months. On June 11, 2013, the City Council adopted Ordinance No. 2013-10 approving a change in the process for reviewing development agreements and resulting in the review being conducted by the Zoning Administrator instead of the City Council. The applicant is required to demonstrate good faith compliance with the terms of the agreement, and should the Zoning Administrator find that the applicant has not complied in good faith with the agreement, the Zoning Administrator should refer the matter to the City Council.

Background

On September 11, 1995, the City Council approved Development Agreement No. 9 ("DA") between the City of Newport Beach and Fletcher Jones Motorcars, Inc. The purpose of the DA was to allow for the development of a previously undeveloped site, known as San Diego Creek North, with the Fletcher Jones Mercedes Benz automobile dealership, which was previously operating in another area of the City.

In conjunction with the DA, on September 11, 1995, the City Council approved General Plan Amendment No. 95-1 (D), Local Coastal Program Amendment No. 39, Amendment 823 (amendment to PC-42 San Diego Creek North), Use Permit 3565, Traffic Study No. 108, and an amendment to Development Agreement No. 6 (CIOSA). The term of the DA is for 20 years and will be in effect up to the year of 2016. The auto dealership has been in operation at this location since September 1997.

The DA is available online at: <http://www.newportbeachca.gov/developmentagreements>. At the last annual review on March 13, 2013, the City Council found Fletcher Jones to be in good faith compliance with the DA.

Terms and Conditions

Fletcher Jones Motorcars is subject to the terms and conditions specified in Development Agreement No. 9. The obligations under the DA include requirements for obtaining land, development of the site, and fees/payments. The City obligations include assisting Fletcher Jones Motorcars with non-City permits, constructing the Bayview Drive extension, acquiring land from Irvine Company and Caltrans, and sharing certain costs. The original construction and subsequent remodels or additions were/are reviewed at the time of plan check and permit issuance. During the 1999 review, the City Council found all but two conditions of the DA had been met relating to payments for the Bayview Drive extension and landscaping requirements.

During the 2009 review, the City Council found that the remaining conditions had been met. During the 2012 review, the City Council reviewed the construction from the

previous year, addressed complaints regarding lighting and employee parking, and found Fletcher Jones Motorcars to be in good faith compliance with the DA.

Annual Review

Since the last review, interior improvements were completed. These improvements were determined to be in compliance with the DA and Use Permit prior to permit issuance.

After reviewing the Annual Report (Attachment No. ZA 2) and applicable documents, staff believes that Fletcher Jones Motorcars continues to comply in good faith with terms and conditions of the DA.

ENVIRONMENTAL REVIEW

This project is exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15321 (Enforcement Actions by Regulatory Agencies) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential to have a significant effect on the environment. This section exempts actions by regulatory agencies to enforce or revoke a lease, permit, license, certificate, or other entitlement for use issued, adopted, or prescribed by the regulatory agency or enforcement of a law, general rule, standard, or objective, administered or adopted by the regulatory agency.

PUBLIC NOTICE

Notice of this review was published in the Daily Pilot, mailed to all owners of property within 300 feet of the boundaries of the site (excluding intervening rights-of-way and waterways) including the applicant and posted on the subject property at least 10 days before the scheduled hearing, consistent with the provisions of the Municipal Code. Additionally, the item appeared on the agenda for this meeting, which was posted at City Hall and on the City website.

APPEAL PERIOD

An appeal may be filed with the City Clerk within 14 days following the date of action. For additional information on filing an appeal, contact the City Clerk's Office at (949) 644-3005.

Prepared by:



Fern Nueno, Associate Planner

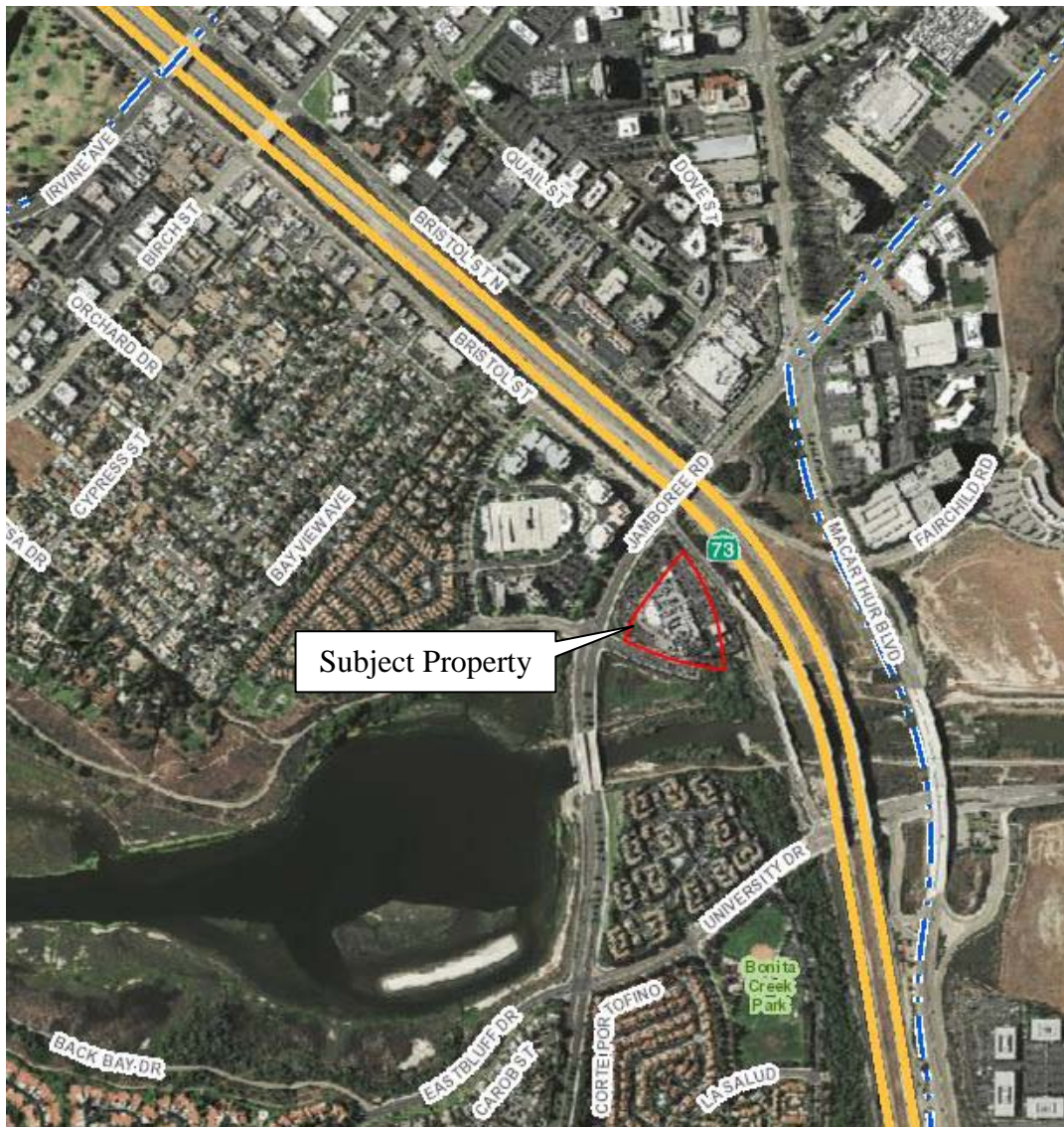
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Attachments: ZA 1 Vicinity Map
 ZA 2 Annual Report

Attachment No. ZA 1

Vicinity Map

VICINITY MAP



Annual Review of Development Agreement No. 9
Fletcher Jones Motorcars
PA2009-052

3300 Jamboree Road

Attachment No. ZA 2

Annual Report



August 6, 2013

Ms. Fern Nueno
Assistant Planner
City of Newport Beach
3300 Newport Blvd.
Newport Beach, CA 92658

RE: Fletcher Jones Motorcars, Development Agreement # 9

Dear Ms. Nueno:

In response to the request of the City for an updated status report on Development Agreement ("DA") No. 9 for Fletcher Jones Motorcars (FJM), we note that there have been no activities on the property since the city's 2012 Staff Report. FJM was found to be in complete compliance with the DA at that time and has completed all of the requirements of DA No. 9. Additionally, the dealership continues to generate the significant sales tax revenues to the City that was anticipated by the agreement.

Let us know if you have any further questions.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Carol McDermott', is written over a light blue horizontal line.

Carol McDermott
Government Solutions, Inc.

cc: Garth Blumenthal, Fletcher Jones Motorcars
Larry Lewis, Fletcher Jones Motorcars